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DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 147 and 155

[CMS-9949-F2]

RIN-0938-AS02

Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond; Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correcting amendment.

SUMMARY: In the May 27, 2014 issue of the **Federal Register** (79 FR 30240), we published a final rule which addressed various requirements applicable to health insurance issuers, Affordable Insurance Exchanges ("Exchanges"), Navigators, non-Navigator assistance personnel, and other entities under the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act). The effective date of the rule was July 28, 2014, except for amendments to 45 CFR 155.705, which were effective May 27, 2014. This correcting amendment corrects a limited number of technical and typographical errors identified in the "Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond" final rule.

DATES: Effective Date: This correcting amendment is effective on [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond final rule (the “Final Rule”), which appeared in the May 27, 2014 **Federal Register** (79 FR 30240), contained a number of technical and typographical errors. Therefore, on July 24, 2014, we published a correction notice in the **Federal Register** (79 FR 42984), to correct some of those errors. The provisions of the correction notice were effective as if they had been included in the May 27, 2014 final rule. Accordingly, those corrections were effective July 28, 2014.

We have identified additional technical and typographical errors that appeared in the May 27, 2014 **Federal Register**. Therefore, we are publishing an additional correcting document to correct these errors. The provisions of this correcting document are effective [insert date of publication in **Federal Register**].

II. Summary of Errors in the Regulations Text

On page 30339, we amended the structure of §147.104(b)(1)(i), removed duplicate regulatory text regarding the Small Business Health Options Program (SHOP), and made other minor revisions. However, when amending paragraph (b)(1)(i)(B) to remove duplicate regulatory text, we inadvertently cross referenced the incorrect regulatory section. The regulation should have referenced the SHOP group participation rules at §156.285(e), not §156.1250(c). We are correcting this error in this correcting document.

On page 30348, at §155.420, we added a new paragraph (b)(2)(iv) to establish coverage effective dates for plan selections made during a special enrollment period,

clarifying a consumer's ability to select a plan 60 days before and after a loss of coverage. However, we inadvertently omitted the amendatory instruction in the regulations text for adding this paragraph. As a result, this paragraph was published in the May 27, 2014 **Federal Register** but was not codified in the Code of Federal Regulations. We also published a subsequent correction notice amending language to this paragraph on July 24, 2014 (79 FR 42984). However, because the original text had not been codified, the change to this paragraph could not be codified. We are correcting this oversight. Specifically, we are adding a new (b)(2)(iv), which reflects the original language we intended to codify in the **Federal Register** as would have been modified by the July 24, 2014 correction notice.

On page 30350, at §155.705(b)(3), we describe options with respect to employee choice requirements in the Small Business Health Options Program (SHOP). We are removing the comma after the word "may" in §155.705(b)(3)(vi) to read, "For plan years beginning in 2015 only, the SHOP may elect...." This was a typographical error that should be made for grammatical correctness.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect, in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)), and section 553(d) of the APA ordinarily requires a 30-day delay in the effective date of final rules after the date of their publication in the **Federal Register**. These requirements may be waived if an agency finds for good cause that the delay is

impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

This correcting document merely corrects technical and typographical errors in the “Exchange and Insurance Market Standards for 2015 and Beyond” final rule that was published on May 27, 2014 and which became effective on July 28, 2014, except for amendments to 45 CFR 155.705, which became effective on May 27, 2014. The changes are not substantive. Therefore, we believe that undertaking further notice and comment procedures to incorporate these corrections and delaying the effective date of these changes is unnecessary. In addition, we believe it is important for the public to have the correct information as soon as possible, and believe it is contrary to the public interest to delay the dissemination of it. For the reasons stated above, we find there is good cause to waive notice and comment procedures and the 30-day delay in the effective date for this correcting amendment.

List of Subjects**45 CFR Part 147**

Health care, Health insurance, Reporting and recordkeeping requirements, State regulation of health insurance.

45 CFR Part 155

Administrative practice and procedure, Health care access, Health insurance, Reporting and recordkeeping requirements, State and local governments, Cost-sharing reductions, Advance payments of premium tax credit, Administration and calculation of advance payments of the premium tax credit, Plan variations, Actuarial value.

IV. Corrections of Errors in the Regulations Text

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR parts 147 and 155 as set forth below:

PART 147 – HEALTH INSURANCE REFORM REQUIREMENTS FOR THE GROUP AND INDIVIDUAL HEALTH INSURANCE MARKETS

1. The authority citation for part 147 continues to read as follows:

Authority: Secs 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 USC 300gg through 300gg-63, 300gg-91, and 300gg-92), as amended.

§ 147.104 [Amended].

2. In §147.104(b)(1)(i)(B), the cross reference “§156.1250(c)” is removed and “§156.285(e)” is added in its place.

PART 155 – EXCHANGE ESTABLISHMENT STANDARDS AND OTHER RELATED STANDARDS UNDER THE AFFORDABLE CARE ACT

3. The authority citation for part 155 continues to read as follows:

Authority: Title I of the Affordable Care Act, sections 1301, 1302, 1303, 1304, 1311, 1312, 1313, 1321, 1322, 1331, 1332, 1334, 1402, 1411, 1412, 1413, Pub. L. 111-148, 124 Stat. 119 (42 U.S.C. 18021-18024, 18031-18033, 18041-18042, 18051, 18054, 18071, and 18081-18083).

4. Section 155.420 is amended by adding paragraph (b)(2)(iv) to read as follows:

§155.420 Special enrollment periods.

* * * * *

(b) * * *

(2) * * *

(iv) In a case where a consumer loses coverage as described in paragraph (d)(1) or (d)(6)(iii) of this section, if the plan selection is made before or on the day of the loss of coverage, the Exchange must ensure that the coverage effective date is on the first day of the month following the loss of coverage. If the plan selection is made after the loss of coverage, the Exchange must ensure that coverage is effective in accordance with paragraph (b)(1) of this section or on the first day of the month following plan selection, at the option of the Exchange;

* * * * *

§155.705 [Amended]

5. Section 155.705 is amended by removing the comma after the word “may” in paragraph (b)(3)(vi).

Dated: September 25, 2014

C'Reda Weeden,
Executive Secretary to the
Department,
Department of Health and Human
Services.

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